

2009-60691 / Court: 164

Filed 09 September 22 A8:49  
Loren Jackson - District Clerk  
Harris County  
ED101J015521999  
By: Furshilla Brantley

CAUSE NO. \_\_\_\_\_

JAMES T. RIGGS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	
	§	HARRIS COUNTY, TEXAS
GRIFFIN RESTAURANTS, INC.	§	
d/b/a WENDY'S OLD FASHION	§	
HAMBURGERS	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**COMES NOW**, JAMES T. RIGGS, Plaintiff, complaining of GRIFFIN RESTAURANTS, INC. d/b/a WENDY'S OLD FASHION HAMBURGERS, Defendant, and for cause of action would show as follows:

I.

Discovery in this case is to be conducted under a Level 3 discovery control plan pursuant to Texas Rule of Civil Procedure 190.3.

II.

Plaintiff is a resident of the State of Texas.

Defendant, GRIFFIN RESTAURANTS, INC. d/b/a WENDY'S OLD FASHION HAMBURGERS ("Griffin") is a corporation doing business in the State of Texas and may be served with process by serving its registered agent, Don Griffin, 17314 SH 249, Suite 205 Houston, Texas 77064. Citation is requested herein.

III.

Venue is proper in Harris County, Texas because all or a substantial part of the events giving rise to this claim occurred in Harris County, Texas.

IV.

At all times pertinent hereto, Plaintiff was an employee of Defendant Griffin. On or about December 16, 2007, while in the course and scope of his employment with Defendant, Plaintiff sustained serious and permanent injuries while doing his job at a store owned and operated by Defendant located at 15335 Wallisville Road in Houston, Harris County, Texas.

V.

Defendant was not a subscriber to a policy of workers compensation insurance, and thus Plaintiff brings this suit for damages under the provisions of Section 406.033 of the Texas Labor Code for personal injuries while in the course and scope of his employment with Defendant.

VI.

Defendant, as a non-subscriber under the Texas Workers' Compensation Act, and pursuant to Section 406.033 of the Texas Labor Code, has lost its common law defenses of:

- a. contributory negligence of Plaintiff;
- b. that the injury was caused by the negligence of a fellow employee; and/or
- c. that the Plaintiff assumed the risk of the injury incident to her employment.

VII.

On the occasion in question, Defendant was guilty of negligence in failing to provide the proper equipment or training for the job required of Plaintiff, failing to provide adequate assistance or supervision to Plaintiff in performing the tasks he was assigned to perform, and in failing to provide him a safe place to work. The negligence of Defendant as set out was a proximate cause of Plaintiff's injuries and damages.

VIII.

Additionally, Defendant assumed a duty to coordinate Plaintiff's medical care by directing him to specific medical providers, and did so negligently. Defendant's conscious, negligent and reckless coordination of Plaintiff's medical care proximately caused his damage, for which he now sues.

IX.

Defendant was grossly negligent and acted with malice, as that term is understood under Texas law, and such conduct was a proximate cause of Plaintiff's injuries. Defendant's malicious and grossly negligent conduct justifies the imposition of punitive and exemplary damages both as punishment of Defendant and its callous disregard for the safety of individuals such as Plaintiff, and as a deterrent to others from engaging in similar conduct. Plaintiff therefore asks for punitive and exemplary damages in addition to all actual damages.

X.

By virtue of the actions and conduct of the Defendant set forth above, Plaintiff was seriously injured. By reason of those injuries and the damages flowing in law therefrom, this suit is maintained. Because of the nature and severity of the injuries sustained, Plaintiff has suffered physical pain and mental anguish and, in reasonable probability, will continue to suffer physical pain and mental anguish in the future. Plaintiff has suffered and will continue to suffer disfigurement, physical impairment, limitation of activities and loss of enjoyment of life. Because of the action and conduct of the Defendant, Plaintiff has sustained very painful and disabling physical injuries which have caused him to sustain lost wages in the past and will cause him to sustain lost wages and a loss of wage earning capacity in the future. Because of the nature

and severity of the injuries sustained, Plaintiff has required medical treatment in the past and, in reasonable probability, will require other and additional treatment in the future. Charges for such medical treatment that have been made in the past and those which will in reasonable probability be made in the future have been and will be reasonable charges made necessary by the occurrence in question.

XI.

Plaintiff would additionally show and prove that she is entitled to a recovery of pre-judgment interest in accordance with law in equity as part of her damages herein, and Plaintiff here and now sues for a recovery of pre-judgment interest from the date of the occurrence made the basis of this suit until the date of the judgment herein as provided by law in equity, under the applicable provisions of the laws of the State of Texas.

XII.

Plaintiff requests a jury trial in this matter.

XIII.

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff, JAMES T. RIGGS, prays that Defendant be cited to appear and answer herein and that upon the trial hereon, Plaintiff have judgment against Defendant for his damages as aforesaid, for prejudgment interest, for interest on the judgment, for costs of court and for such other and further relief, special and general, at law or in equity, to which Plaintiff may show himself justly entitled to receive.

Respectfully submitted,

**VUJASINOVIC & BECKCOM, L.L.P.**

A handwritten signature in black ink, appearing to read 'K. Milne', is written over a horizontal line.

**KENNETH J. MILNE**

State Bar No. 24051057

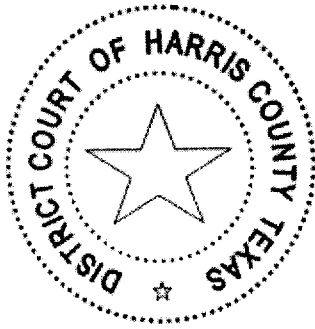
1001 Texas Avenue, Suite 1020

Houston, Texas 77002

713-224-7800

713-224-7801 Facsimile

**ATTORNEYS FOR PLAINTIFF**



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date  
Witness my official hand and seal of office  
this November 2, 2009

Certified Document Number: 43393846 Total Pages: 5

LOREN JACKSON, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**